

AMENDED IN SENATE JUNE 22, 2004  
AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1802**

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**Introduced by Assembly Member Bogh**  
(Principal coauthor: Senator Battin)  
(*Coauthor: Assembly Member Cogdill*)

January 12, 2004

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An act to amend Section 374.3 of the Penal Code, relating to illegal dumping.

LEGISLATIVE COUNSEL'S DIGEST

AB 1802, as amended, Bogh. Illegal dumping: penalties.

Existing law makes illegal specified acts relating to dumping waste matter, rocks, or dirt in certain locations without obtaining consent. Existing law requires that a person convicted of dumping waste matter in commercial quantities in violation of these provisions be punished by the imposition of a fine in an amount that varies based upon the person's previous convictions for this offense, as specified.

This bill would *add asphalt and concrete to the material that may not be dumped in certain locations*. It would increase the amounts of the fines imposed for dumping waste matter in commercial quantities, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 374.3 of the Penal Code is amended to read:

374.3. (a) It is unlawful to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of that property.

(b) It is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, any rocks, *concrete*, *asphalt*, or dirt in or upon any private highway or road, including any portion of the right-of-way thereof, or any private property, without the consent of the owner, or in or upon any public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property.

(c) Any person violating this section is guilty of an infraction. Each day that waste placed, deposited, or dumped in violation of *subdivision (a) or (b)* of this section remains is a separate violation.

(d) This section does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry and Fire Protection, in which case this section applies.

(e) A person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than two thousand five hundred dollars (\$2,500) upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped

1 was used tires, the fine prescribed in this subdivision shall be  
2 doubled.

3 (f) The court may require, in addition to any fine imposed upon  
4 a conviction, that, as a condition of probation and in addition to any  
5 other condition of probation, a person convicted under this section  
6 remove, or pay the cost of removing, any waste matter which the  
7 convicted person dumped or caused to be dumped upon public or  
8 private property.

9 (g) Except when the court requires the convicted person to  
10 remove waste matter which he or she is responsible for dumping  
11 as a condition of probation, the court may, in addition to the fine  
12 imposed upon a conviction, require as a condition of probation, in  
13 addition to any other condition of probation, that any person  
14 convicted of a violation of this section pick up waste matter at a  
15 time and place within the jurisdiction of the court for not less than  
16 12 hours.

17 (h) (1) Any person who places, deposits, or dumps, or causes  
18 to be placed, deposited, or dumped, waste matter in violation of  
19 this section in commercial quantities shall be guilty of a  
20 misdemeanor punishable by imprisonment in a county jail for not  
21 more than six months and by a fine. The fine is mandatory and shall  
22 amount to not less than one thousand dollars (\$1,000) nor more  
23 than three thousand dollars (\$3,000) upon a first conviction, not  
24 less than three thousand dollars (\$3,000) nor more than six  
25 thousand dollars (\$6,000) upon a second conviction, and not less  
26 than six thousand dollars (\$6,000) nor more than ten thousand  
27 dollars (\$10,000) upon a third or subsequent conviction.

28 (2) “Commercial quantities” means an amount of waste matter  
29 generated in the course of a trade, business, profession, or  
30 occupation, or an amount equal to or in excess of one cubic yard.  
31 This subdivision does not apply to the dumping of household  
32 waste at a person’s residence.

33 (i) For purposes of this section, “person” means an individual,  
34 trust, firm, partnership, joint stock company, joint venture, or  
35 corporation.

36 (j) Except in unusual cases where the interests of justice would  
37 be best served by waiving or reducing a fine, the minimum fines  
38 provided by this section shall not be waived or reduced.

39 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~  
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~  
2 ~~district will be incurred because this act creates a new crime or~~  
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
5 ~~the Government Code, or changes the definition of a crime within~~  
6 ~~the meaning of Section 6 of Article XIII B of the California~~  
7 ~~Constitution.~~

